

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Disabled Persons Rehabilitation Act is
5 amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the
8 powers and duties enumerated herein:

9 (a) To co-operate with the federal government in the
10 administration of the provisions of the federal Rehabilitation
11 Act of 1973, as amended, of the Workforce Investment Act of
12 1998, and of the federal Social Security Act to the extent and
13 in the manner provided in these Acts.

14 (b) To prescribe and supervise such courses of vocational
15 training and provide such other services as may be necessary
16 for the habilitation and rehabilitation of persons with one or
17 more disabilities, including the administrative activities
18 under subsection (e) of this Section, and to co-operate with
19 State and local school authorities and other recognized
20 agencies engaged in habilitation, rehabilitation and
21 comprehensive rehabilitation services; and to cooperate with
22 the Department of Children and Family Services regarding the
23 care and education of children with one or more disabilities.

1 (c) (Blank).

2 (d) To report in writing, to the Governor, annually on or
3 before the first day of December, and at such other times and
4 in such manner and upon such subjects as the Governor may
5 require. The annual report shall contain (1) a statement of the
6 existing condition of comprehensive rehabilitation services,
7 habilitation and rehabilitation in the State; (2) a statement
8 of suggestions and recommendations with reference to the
9 development of comprehensive rehabilitation services,
10 habilitation and rehabilitation in the State; and (3) an
11 itemized statement of the amounts of money received from
12 federal, State and other sources, and of the objects and
13 purposes to which the respective items of these several amounts
14 have been devoted.

15 (e) (Blank).

16 (f) To establish a program of services to prevent the
17 unnecessary institutionalization of ~~persons with Alzheimer's~~
18 ~~disease and related disorders~~ or persons in need of long term
19 care and who meet the criteria for blindness or disability ~~are~~
20 ~~established as blind or disabled~~ as defined by the Social
21 Security Act, thereby enabling them to remain in their own
22 homes ~~or other living arrangements~~. Such preventive services
23 ~~may include, but are not limited to,~~ any or all of the
24 following:

25 (1) personal assistant services ~~home health services;~~

26 (2) homemaker services ~~home nursing services;~~

- 1 (3) home-delivered meals ~~homemaker services~~;
- 2 (4) adult day care services ~~chore and housekeeping~~
3 ~~services~~;
- 4 (5) respite care ~~day care services~~;
- 5 (6) home modification or assistive equipment
6 ~~home delivered meals~~;
- 7 (7) home health services ~~education in self care~~;
- 8 (8) electronic home response ~~personal care services~~;
- 9 (9) brain injury behavioral/cognitive services ~~adult~~
10 ~~day health services~~;
- 11 (10) brain injury habilitation ~~habilitation services~~;
- 12 (11) brain injury pre-vocational services ~~respite~~
13 ~~care~~; or
- 14 (12) brain injury supported employment ~~other~~
15 ~~nonmedical social services that may enable the person to~~
16 ~~become self supporting~~.

17 The Department shall establish eligibility standards for
18 such services taking into consideration the unique economic and
19 social needs of the population for whom they are to be
20 provided. Such eligibility standards may be based on the
21 recipient's ability to pay for services; provided, however,
22 that any portion of a person's income that is equal to or less
23 than the "protected income" level shall not be considered by
24 the Department in determining eligibility. The "protected
25 income" level shall be determined by the Department, shall
26 never be less than the federal poverty standard, and shall be

1 adjusted each year to reflect changes in the Consumer Price
2 Index For All Urban Consumers as determined by the United
3 States Department of Labor. The standards must provide that a
4 person may not have ~~not~~ more than \$10,000 in assets to be
5 eligible for the services, and the Department may increase or
6 decrease the asset limitation by rule. The Department may not
7 decrease the asset level below \$10,000. ~~Additionally, in~~
8 ~~determining the amount and nature of services for which a~~
9 ~~person may qualify, consideration shall not be given to the~~
10 ~~value of cash, property or other assets held in the name of the~~
11 ~~person's spouse pursuant to a written agreement dividing~~
12 ~~marital property into equal but separate shares or pursuant to~~
13 ~~a transfer of the person's interest in a home to his spouse,~~
14 ~~provided that the spouse's share of the marital property is not~~
15 ~~made available to the person seeking such services.~~

16 The services shall be provided, as established by the
17 Department by rule, to eligible persons to prevent unnecessary
18 or premature institutionalization, to the extent that the cost
19 of the services, together with the other personal maintenance
20 expenses of the persons, are reasonably related to the
21 standards established for care in a group facility appropriate
22 to their condition. These non-institutional services, pilot
23 projects or experimental facilities may be provided as part of
24 or in addition to those authorized by federal law or those
25 funded and administered by the Illinois Department on Aging.

26 Personal assistants shall be paid at a rate negotiated

1 between the State and an exclusive representative of personal
2 assistants under a collective bargaining agreement. In no case
3 shall the Department pay personal assistants an hourly wage
4 that is less than the federal minimum wage. ~~care attendants~~
5 ~~shall be paid:~~

6 ~~(i) A \$5 per hour minimum rate beginning July 1, 1995.~~

7 ~~(ii) A \$5.30 per hour minimum rate beginning July 1,~~
8 ~~1997.~~

9 ~~(iii) A \$5.40 per hour minimum rate beginning July 1,~~
10 ~~1998.~~

11 Solely for the purposes of coverage under the Illinois
12 Public Labor Relations Act (5 ILCS 315/), ~~personal care~~
13 ~~attendants and~~ personal assistants providing services under
14 the Department's Home Services Program shall be considered to
15 be public employees and the State of Illinois shall be
16 considered to be their employer as of the effective date of
17 this amendatory Act of the 93rd General Assembly, but not
18 before. The State shall engage in collective bargaining with an
19 exclusive representative of ~~personal care attendants and~~
20 personal assistants working under the Home Services Program
21 concerning their terms and conditions of employment that are
22 within the State's control. Nothing in this paragraph shall be
23 understood to limit the right of the persons receiving services
24 defined in this Section to hire and fire ~~personal care~~
25 ~~attendants and~~ personal assistants or supervise them within the
26 limitations set by the Home Services Program. The State shall

1 not be considered to be the employer of ~~personal care~~
2 ~~attendants and~~ personal assistants for any purposes not
3 specifically provided in this amendatory Act of the 93rd
4 General Assembly, including but not limited to, purposes of
5 vicarious liability in tort and purposes of statutory
6 retirement or health insurance benefits. Personal ~~care~~
7 ~~attendants and personal~~ assistants shall not be covered by the
8 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

9 The Department shall execute, relative to ~~the~~ nursing home
10 prescreening ~~project~~, as authorized by Section 4.03 of the
11 Illinois Act on the Aging, written inter-agency agreements with
12 the Department on Aging and the ~~Department of Public Aid (now~~
13 ~~Department of Healthcare and Family Services)~~, to effect the
14 ~~following: (i) intake procedures and common~~ eligibility
15 criteria for those persons who may need long term care ~~are~~
16 ~~receiving non institutional services; and (ii) the~~
17 ~~establishment and development of non institutional services in~~
18 ~~areas of the State where they are not currently available or~~
19 ~~are undeveloped.~~ On and after July 1, 1996, all nursing home
20 prescreenings for individuals 18 through 59 years of age shall
21 be conducted by the Department, or a designee of the
22 Department.

23 The Department is authorized to establish a system of
24 recipient cost-sharing for services provided under this
25 Section. The cost-sharing shall be based upon the recipient's
26 ability to pay for services, but in no case shall the

1 recipient's share exceed the actual cost of the services
2 provided. Protected income shall not be considered by the
3 Department in its determination of the recipient's ability to
4 pay a share of the cost of services. The level of cost-sharing
5 shall be adjusted each year to reflect changes in the
6 "protected income" level. The Department shall deduct from the
7 recipient's share of the cost of services any money expended by
8 the recipient for disability-related expenses.

9 To the extent permitted under the federal Social Security
10 Act, the ~~The~~ Department, or the Department's authorized
11 representative, may ~~shall~~ recover the amount of moneys expended
12 for services provided to or in behalf of a person under this
13 Section by a claim against the person's estate or against the
14 estate of the person's surviving spouse, but no recovery may be
15 had until after the death of the surviving spouse, if any, and
16 then only at such time when there is no surviving child who is
17 under age 21, blind, or permanently and totally disabled. This
18 paragraph, however, shall not bar recovery, at the death of the
19 person, of moneys for services provided to the person or in
20 behalf of the person under this Section to which the person was
21 not entitled; provided that such recovery shall not be enforced
22 against any real estate while it is occupied as a homestead by
23 the surviving spouse or other dependent, if no claims by other
24 creditors have been filed against the estate, or, if such
25 claims have been filed, they remain dormant for failure of
26 prosecution or failure of the claimant to compel administration

1 of the estate for the purpose of payment. This paragraph shall
2 not bar recovery from the estate of a spouse, under Sections
3 1915 and 1924 of the Social Security Act and Section 5-4 of the
4 Illinois Public Aid Code, who precedes a person receiving
5 services under this Section in death. All moneys for services
6 paid to or in behalf of the person under this Section shall be
7 claimed for recovery from the deceased spouse's estate.
8 "Homestead", as used in this paragraph, means the dwelling
9 house and contiguous real estate occupied by a surviving spouse
10 or relative, as defined by the rules and regulations of the
11 Department of Healthcare and Family Services, regardless of the
12 value of the property.

13 The Department shall submit ~~and the Department on Aging~~
14 ~~shall cooperate in the development and submission of~~ an annual
15 report on programs and services provided under this Section.
16 The ~~Such joint~~ report shall be filed with the Governor and the
17 General Assembly on or before March 30 each year.

18 The requirement for reporting to the General Assembly shall
19 be satisfied by filing copies of the report with the Speaker,
20 the Minority Leader and the Clerk of the House of
21 Representatives and the President, the Minority Leader and the
22 Secretary of the Senate and the Legislative Research Unit, as
23 required by Section 3.1 of the General Assembly Organization
24 Act, and filing additional copies with the State Government
25 Report Distribution Center for the General Assembly as required
26 under paragraph (t) of Section 7 of the State Library Act.

1 (g) To establish such subdivisions of the Department as
2 shall be desirable and assign to the various subdivisions the
3 responsibilities and duties placed upon the Department by law.

4 (h) To cooperate and enter into any necessary agreements
5 with the Department of Employment Security for the provision of
6 job placement and job referral services to clients of the
7 Department, including job service registration of such clients
8 with Illinois Employment Security offices and making job
9 listings maintained by the Department of Employment Security
10 available to such clients.

11 (i) To possess all powers reasonable and necessary for the
12 exercise and administration of the powers, duties and
13 responsibilities of the Department which are provided for by
14 law.

15 (j) (Blank). ~~To establish a procedure whereby new providers~~
16 ~~of personal care attendant services shall submit vouchers to~~
17 ~~the State for payment two times during their first month of~~
18 ~~employment and one time per month thereafter. In no case shall~~
19 ~~the Department pay personal care attendants an hourly wage that~~
20 ~~is less than the federal minimum wage.~~

21 (k) (Blank). ~~To provide adequate notice to providers of~~
22 ~~chore and housekeeping services informing them that they are~~
23 ~~entitled to an interest payment on bills which are not promptly~~
24 ~~paid pursuant to Section 3 of the State Prompt Payment Act.~~

25 (l) To establish, operate and maintain a Statewide Housing
26 Clearinghouse of information on available, government

1 subsidized housing accessible to disabled persons and
2 available privately owned housing accessible to disabled
3 persons. The information shall include but not be limited to
4 the location, rental requirements, access features and
5 proximity to public transportation of available housing. The
6 Clearinghouse shall consist of at least a computerized database
7 for the storage and retrieval of information and a separate or
8 shared toll free telephone number for use by those seeking
9 information from the Clearinghouse. Department offices and
10 personnel throughout the State shall also assist in the
11 operation of the Statewide Housing Clearinghouse. Cooperation
12 with local, State and federal housing managers shall be sought
13 and extended in order to frequently and promptly update the
14 Clearinghouse's information.

15 (m) To assure that the names and case records of persons
16 who received or are receiving services from the Department,
17 including persons receiving vocational rehabilitation, home
18 services, or other services, and those attending one of the
19 Department's schools or other supervised facility shall be
20 confidential and not be open to the general public. Those case
21 records and reports or the information contained in those
22 records and reports shall be disclosed by the Director only to
23 proper law enforcement officials, individuals authorized by a
24 court, the General Assembly or any committee or commission of
25 the General Assembly, and other persons and for reasons as the
26 Director designates by rule. Disclosure by the Director may be

1 only in accordance with other applicable law.

2 (Source: P.A. 94-252, eff. 1-1-06; 95-331, eff. 8-21-07.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.